

FILED

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

2011 MAY 10 P 3:15

CLERK US DISTRICT COURT  
ALEXANDRIA, VIRGINIA

MARIAM KHALID, A# 088-168-074  
MALALAY KHALID, A# 088-168-075  
ALHAM KHALID, A# 088-168-076  
ZEBEHULLAH KHALID, A# 088-168-077

**Petitioners,**

v.

**GREG RICHARDSON,**  
Acting Director,  
Nebraska Service Center,  
U.S. Citizenship and Immigration Services;

**LAUREN KIELSMEIER,**  
Acting Deputy Director,  
U.S. Citizenship and Immigration Services;

**JANET NAPOLITANO,**  
Secretary,  
Department of Homeland Security;

**ERIC HOLDER,**  
Attorney General,  
Department of Justice,

**ROBERT S. MUELLER, III,**  
Director,  
Federal Bureau of Investigation;

SERVE:  
**NEIL MacBRIDE, ESQ.**  
U.S. Attorney, Eastern District of Virginia  
U.S. Citizenship and Immigration Services;

Case No.: 1:11 CV 500  
CMH / TCB

**Respondents.**

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## **PETITION FOR WRIT OF MANDAMUS**

COMES NOW, the Petitioners, **MARIAM KHALID, MALALAY KHALID, ALHAM KHALID and ZEBEHULLAH KHALID**, by counsel, and in support of their Petition for a Writ of Mandamus, hereby states as follows:

### **INTRODUCTION**

1. This action seeks to compel Respondents to adjudicate the Petitioners' I-485, Applications for Adjustment of Status, which were filed more than **three years ago** and are currently pending with the United States Citizenship and Immigration Services (USCIS), Nebraska Service Center. The Petitioners filed Form I-485, Application to Adjust Permanent Resident Status on March 3, 2008, on the basis of being Asylees for more than one year. Respondents have failed, without cause or justification, to adjudicate **the Petitioners'** applications.

### **JURISDICTION**

2. This Court has jurisdiction over the present action pursuant to the Administrative Procedures Act, 5 U.S.C.A. ' 702, and the Mandamus Act, 28 U.S.C.A. ' 1361.

3. In the alternative, this Court has jurisdiction over the present action pursuant to the Immigration and Naturalization Act, 8 U.S.C.A. ' 1447(b).

### **VENUE**

4. Venue is proper in this Court pursuant to 28 U.S.C.A. ' 1391(e), as Petitioner is a resident of the Eastern District of Virginia, and Respondents U.S. Citizenship and Immigration

Services, Department of Homeland Security, and the Federal Bureau of Investigations are federal agencies that operate within the Eastern District of Virginia.

### **PARTIES**

5. Petitioners, **MARIAM KHALID, MALALAY KHALID, ALHAM KHALID and ZEBEHULLAH KHALID** reside at 8729 Flowering Dogwood Lane, Lorton, Virginia, 22079. They are the primary applicants of I-485 Applications to Register Permanent Resident Status, filed with the United States Citizenship and Immigration Services (USCIS) on **March 3, 2008**.

6. Respondent Greg Richardson is the Active Director of the Nebraska Service Center of the U.S. Citizenship and Immigration Services (USCIS). In that position, he is charged with supervisory authority over all service operations of the USCIS for the Nebraska Service Center with certain specific exceptions not relevant here. 8 CFR ' 103.1(g)(2)(ii)(B).

7. Respondent Lauren Kielsmeier is the Acting Director of the U.S. Citizenship & Immigration Services (USCIS). In that position, she is charged with supervisory authority over all operations of the USCIS with certain specific exceptions not relevant here. 8 CFR ' 103.1(g)(2)(ii)(B).

8. Respondent Janet Napolitano is the Secretary of the Department of Homeland Security (DHS). She is generally charged with enforcement of the Immigration and Nationality Act, and is further authorized to delegate such powers and authority to subordinate employees of the Department of Homeland Security. 8 U.S.C.A. ' 1103(a). More specifically, the DHS Secretary is responsible for the adjudication of applications for naturalization filed pursuant to the Immigration and Nationality Act (INA). The USCIS is an agency within DHS to whom the DHS Secretary's authority has in part been delegated, and is subject to the DHS Secretary's supervision.

9. Respondent Eric Holder is the Attorney General of the United States and is responsible for the implementation and enforcement of the INA.

10. Respondent Robert Mueller, III, is the Director of the Federal Bureau of Investigation (FBI), the law enforcement agency that conducts security clearances for other U.S. government agencies, such as the Department of the State (DOS) and the USCIS. Respondent has failed to complete the security clearances of Petitioner's case.

### **FACTS**

11. On March 3, 2008, pursuant to 8 U.S.C.A. ' 1445, Petitioners properly filed Forms I-485, Applications to Register Permanent Resident Status. Attached hereto as **Exhibit A** is a receipt notice dated **March 4, 2008**.

### **EXHAUSTION OF REMEDIES**

12. The Petitioners have exhausted all of their administrative remedies. The Petitioners properly filed their Adjustment of Status Applications and supplied the USCIS with all documents that clearly establish Respondent's eligibility for permanent resident status. In addition, Petitioners have made numerous inquiries after the 120-day review period to check on the status of their cases. Attached hereto as **Exhibit B** is a copy of a letter from Mr. Gerald E. Connolly, Member of Congress informing the Petitioners of their case status. Nevertheless, Respondents have failed to adjudicate Petitioners' adjustment of status applications to date. Petitioners' applications have now been pending with the USCIS for **over three years**.

**CLAIM FOR RELIEF**

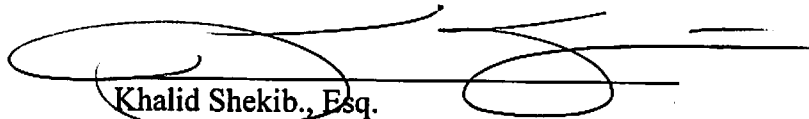
13. Petitioners are entitled to a timely adjudication of their pending applications for immigration benefits. Petitioners have met and/or exceeded all of the general requirements for adjustment of status under 8 U.S.C. ' 245. Despite taking all the above-mentioned actions, Respondents still refuse to adjudicate Petitioners' applications to date. Petitioners' applications have now been pending with the USCIS for **over three years**. Respondents have a non-discretionary duty to adjudicate Petitioners' Application, and have unreasonably failed to perform that duty. See 5 U.S.C. § 706(1); Aslam at \*16. This duty has not been performed within a "reasonable time," as required by 5 U.S.C. § 555(b). Respondents willfully, and unreasonably, delayed and/or refused to adjudicate the Petitioner's I-485 Application for Adjustment of Status, thereby depriving Petitioner of the benefit of United States Permanent Resident Status and "materially hindering [his] life and livelihood." Aslam at \*22. Despite Petitioner's repeated attempts to check on the status of his application, Respondents have offered no reasons for the delay. WHEREFORE, in view of the arguments and authority cited herein, the Petitioner respectfully prays that this honorable Court:

- (a) Assume jurisdiction of this action;
- (b) Order Respondents to timely adjudicate Petitioner's application for permanent residence;
- (c) Order Respondents to provide the Petitioner with a Notice of Approval;
- (d) Grant such other relief at law and in equity as justice may require.

Respectfully submitted this 10 day of May, 2011,

**MARIAM KHALID  
MALALAY KHALID  
ALHAM KHALID  
ZEBEHULLAH KHALID  
By Counsel**

**HADEED, SEXAUER & SHEKIB, P.C.**

A handwritten signature in black ink, appearing to read 'Khalid Shekib, Esq.', is written over a horizontal line. The signature is stylized with loops and a long horizontal stroke extending to the right.

**Khalid Shekib., Esq.**

**EDVA Bar # 72271**

**7010 Little River Turnpike, Ste. 450**

**Annandale, VA 22003**

**(703) 354-7777**

**(703) 354-1594 fax**

**Counsel for**

**MARIAM KHALID**

**MALALAY KHALID**

**ALHAM KHALID**

**ZEBEHULLAH KHALID**

**SERVE:**

Robert. S. Mueller, III  
Director Of Federal Bureau of Investigations  
ATTN: Office of General Counsel, J. Edgar Hoover Building  
935 Pennsylvania Ave., N.W. Washington, DC 20535-0001

Eric Holder  
Attorney General of the United States  
950 Pennsylvania Avenue, N.W., Room 4400  
Washington, DC 20530-0001

Greg Richardson, Nebraska Service Center District Director  
Nebraska Service Center  
850 "S" Street  
Lincoln, NE 68501

Janet Napolitano  
Secretary, U.S. Department of Homeland Security  
Attn: Office of the General Counsel  
Washington, DC 20258

Lauren Kielsmeier  
Acting Deputy Director  
U.S. Department of Homeland Security  
Washington, DC 20525

Neil MacBride, ESQ.  
U.S. Attorney, Eastern District of Virginia  
United States Attorney's Office  
2100 Jamieson Avenue  
Alexandria, VA 22314

**CERTIFICATE OF SERVICE**

I, **KHALID A. SHEKIB**, hereby certify that I caused to be delivered by First Class Mail, a copy of the foregoing **PETITION FOR WRIT OF MANDAMUS**, this 12 day of May 2011, to the parties listed below.

Robert. S. Mueller, III  
Director Of Federal Bureau of Investigations  
ATTN: Office of General Counsel, J. Edgar Hoover Building  
935 Pennsylvania Ave., N.W. Washington, DC 20535-0001

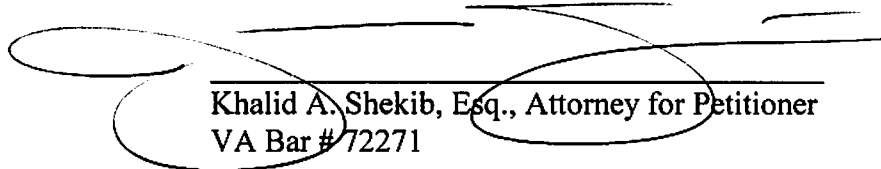
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Acting Deputy Director  
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Khalid A. Shekib, Esq., Attorney for Petitioner  
VA Bar #72271